Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0487	**Title:**	Require tax information agents report certain real estate transactions
Primary Sponsor:	Story, Bob	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

Description of fiscal impact:

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$3,018,817	$2,940,173	$2,971,330	$2,972,340
Revenue:				
General Fund	$18,130,050	$19,689,235	$21,382,509	$23,221,405
Net Impact-General Fund Balance	$15,111,233	$16,749,062	$18,411,179	$20,249,065

This bill requires information agents to report proceeds from certain real estate transactions according to IRS rules and regulations.

FISCAL ANALYSIS

Assumptions:

1. Section 1 of this bill amends 15-30-301(d), MCA, requiring information agents to submit copies of reports pertaining to real estate sales transactions that are required under the rules or regulations of the internal revenue service to the Department of Revenue. This would include reports by non-residents of Montana real property sales.
2. In 2005, records from the department's property tax database (CAMAS) combined with sales history file data reveal a total of 2,022 class 4 real property sales by nonresidents totaling $435,872,247 in sales.
3. A review by the department's business and income tax staff of 1099S forms from tax year 2003 found that 30% of non-residents currently file state tax returns on the gain of sales for Class 4 property. The Department understands the intent of this bill is to have these information reports available to staff in order to improve this compliancy rate as much as possible through additional auditing, litigation and

collections efforts and resources. Based on this assumption, the estimated compliance rate would increase from the current 30% to 97%

4. A review of the 2,022 sales records showed 1,076 had a previous sales amount. Based on a review of these the estimated gain was 100%. Multiplying the $435,872,247 in sales x 67% anticipated increase in the compliance rate from 30% to 97% provides an estimated $292,034,406 in unreported capital gains on class 4 sales.
5. At a 4% tax rate (6% average income tax rate less the 2% capital gains credit), the resulting tax revenue from unreported capital gains on sales of real property is estimated as $11,681,376 ($292,034,406 x 4%).
6. For class 3 Agricultural Land, based on the property's class code, a per acre value was selected from the appropriate USDA 2005 average value per acre for the particular type of land (farm real estate, cropland, irrigated, non-irrigated, and pasture acreage). In 2005, there were 2,341 class 3 sales of agricultural land by non-residents. Multiplying the acreage quantity by the appropriate USDA per acre rate resulted in estimated sales of $148,869,350.
7. From 1994-2004, the USDA average increase in the value of farmland was 4.93% per year for a 62% increase over 10 years. This rate was used to estimate capital gains of $92,298,997 (62% x $148,869,350).
8. Multiplying the $92,298,997 in sales times 67% anticipated increase in the compliance rate provides an estimated $61,840,328 in unreported capital gains on class 3 sales.
9. At a 4% tax rate, the anticipated revenue from unreported gains on class 3 sales is estimated as $2,473,613.
10. Combining the anticipated unreported capital gains from class 3 and class 4 sales results in $14,154,989 in estimated revenue from sales in 2005. The Center for Applied Economic Research reports that between 1999 and 2003, the average home price increased at an annual rate of growth of 8.6%. Data maintained by the Federal Reserve Bank of Kansas City indicates fairly comparable land value changes for agricultural farmland since the first half of 2004. Therefore this growth rate was used to estimate revenues which are projected to be $18,130,050 in FY 2008, $19,689,235 in FY 2009, and $21,382,509 in FY 2010, and $23,221,405 in FY 2011.
11. The Department of Revenue estimates needing 20 additional FTE to review, audit, litigate, and collect 70% of the revenues anticipated from the additional agent information reports at a cost of $1,372,460. An additional $1.5 million per year is requested to contract litigants in other states to collect 27% of the projected revenues attaining a 97% overall collections rate.
12. The 20 department FTE would include 10 auditors, 3 tax examiners, 5 lawyers, and 2 collection specialists. Personal service costs associated with these positions are $1,215,857 in FY 2008 and are increased 2.5% for each year thereafter. Equipment costs for these positions are estimated as $118,000 in FY 2008. Associated operating costs for the department's requested FTE are $184,960 in FY 2008 and $193,920 in FY 2009 and thereafter. The operating costs of $1.5 million are for contract services with out-of-state law firms. Total estimated expenditures are estimated as $3,018,817 in FY 2008 and $2,940,173 in FY 2009, $2,971,330 in FY 2010 and $2,972,340 in FY 2011.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	20.00	20.00	20.00	20.00
Expenditures:				
Personal Services	$1,215,857	$1,246,253	$1,277,410	$1,278,420
Operating Expenses	$1,684,960	$1,693,920	$1,693,920	$1,693,920
Equipment	$118,000	$0	$0	$0
TOTAL Expenditures	$3,018,817	$2,940,173	$2,971,330	$2,972,340
Funding of Expenditures:				
General Fund (01)	$3,018,817	$2,940,173	$2,971,330	$2,972,340
TOTAL Funding of Exp.	$3,018,817	$2,940,173	$2,971,330	$2,972,340
Revenues:				
General Fund (01)	$18,130,050	$19,689,235	$21,382,509	$23,221,405
TOTAL Revenues	$18,130,050	$19,689,235	$21,382,509	$23,221,405
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$15,111,233	$16,749,062	$18,411,179	$20,249,065

Technical Notes:

1. To comport with federal law, it would be helpful if Section 1(d) be amended to read "proceeds from real estate transactions that are required to be reported under rules or regulations of the United States department of the treasury."

Sponsor's Initials *Date* *Budget Director's Initials* *Date*